



January 25, 2001

HOUSE BILL No. 1545

DIGEST OF HB 1545 (Updated January 23, 2001 1:13 PM - DI 96)

Citations Affected: IC 22-5.

Synopsis: Electronic monitoring of employees. Requires employers to disclose to an employee or a prospective employee any type of electronic monitoring of employees. Limits the extent to which an employer may electronically monitor the employees of the employers. Permits the commissioner of labor to investigate alleged violations of electronic monitoring of employees. Permits the commissioner of labor to assess a civil penalty of up to \$10,000 for a violation of electronic monitoring of employees. Provides that an employee or prospective employee may bring a civil action against an employer to enforce a violation of electronic monitoring of employees. Provides that a court may award actual damages and court costs and reasonable attorney's fees to the prevailing employee or prospective employee, and may enjoin further violation of electronic monitoring of employees.

Effective: July 1, 2001.

Kuzman, Liggett

January 11, 2001, read first time and referred to Committee on Labor and Employment.
January 24, 2001, reported — Do Pass.

C
o
p
y

HB 1545—LS 7145/DI 96+



January 25, 2001

First Regular Session 112th General Assembly (2001)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2000 General Assembly.

HOUSE BILL No. 1545

A BILL FOR AN ACT to amend the Indiana Code concerning labor and industrial safety.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 22-5-6 IS ADDED TO THE INDIANA CODE AS
2 A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 2001]:

4 **Chapter 6. Electronic Monitoring of Employees**

5 **Sec. 1. As used in this chapter, "commissioner" means the**
6 **commissioner of the department of labor.**

7 **Sec. 2. As used in this chapter, "electronic monitoring" means**
8 **the collection, storage, analysis, and reporting of information**
9 **concerning an employee's activities by any of the following means:**

10 **(1) Computer.**

11 **(2) Electronic observation and supervision.**

12 **(3) Remote telephone surveillance.**

13 **(4) Telephone call accounting.**

14 **(5) Other forms of visual, auditory, or computer based**
15 **surveillance conducted by any transfer of signs, signals,**
16 **writing, images, sounds, data, or intelligence of any nature**
17 **transmitted in whole or in part by a wire, a radio, or an**

HB 1545—LS 7145/DI 96+



C
o
p
y

1 electromagnetic, a photoelectronic, or a photo-optical system.

2 Sec. 3. As used in this chapter, "employee" means an individual
3 who is or was permitted to work by an employer in employment.

4 Sec. 4. As used in this chapter, "employer" means a person that
5 employs employees. The term includes an individual, a
6 corporation, a partnership, a labor organization, an
7 unincorporated association, the state or a political subdivision of
8 the state, or any other legal business, and any agent of the
9 employer.

10 Sec. 5. As used in this chapter, "personal data" means
11 information concerning an employee that, because of name,
12 identifying number, mark, or description, can be readily associated
13 with a particular individual. The term includes information
14 contained in printouts, forms, or written analyses or evaluations.

15 Sec. 6. As used in this chapter, "prospective employee" means
16 an individual who has applied for a position of employment with an
17 employer.

18 Sec. 7. An employer that engages in electronic monitoring shall
19 provide each affected employee with prior written notice
20 describing the following information concerning electronic
21 monitoring that directly affects the employee:

22 (1) The forms of electronic monitoring to be used.

23 (2) The personal data to be collected.

24 (3) The frequency of occurrence of each form of electronic
25 monitoring.

26 (4) The use of personal data to be collected.

27 (5) An interpretation of printouts of statistics or other records
28 of information collected through electronic monitoring.

29 (6) Existing production standards and work performance
30 expectations.

31 (7) Methods of determining production standards and work
32 performance expectations based on electronic monitoring
33 statistics.

34 Sec. 8. (a) An employer shall notify a prospective employee at a
35 personal interview or meeting of existing forms of electronic
36 monitoring that may directly affect the prospective employee if the
37 employee is hired by the employer.

38 (b) Upon request by a prospective employee, an employer shall
39 provide the prospective employee with the written notice described
40 in section 7 of this chapter regarding existing forms of electronic
41 monitoring that may directly affect the prospective employee if the
42 prospective employee is hired by the employer.



1 **Sec. 9. An employer that engages in electronic monitoring shall**
 2 **provide the affected employee with a signal light, beeping tone,**
 3 **verbal notification, or other form of visual or aural notice, at**
 4 **periodic intervals, that indicates that electronic monitoring is**
 5 **taking place. However, if the electronic monitoring is conducted on**
 6 **a continuous basis during an employee's shift, the notice is not**
 7 **required to be provided at periodic intervals.**

8 **Sec. 10. An employer that engages in telephone service**
 9 **observation shall provide the affected employee or customer with**
 10 **a signal light, beeping tone, verbal notification, or other form of**
 11 **visual or aural notice, at periodic intervals, that indicates telephone**
 12 **service observation is taking place.**

13 **Sec. 11. An employer shall permit an employee or the**
 14 **employee's authorized agent to have access to all personal data**
 15 **obtained by electronic monitoring of the employee's work.**

16 **Sec. 12. An employer may not collect personal data on an**
 17 **employee through electronic monitoring if the personal data is not**
 18 **relevant to the employee's work performance.**

19 **Sec. 13. An employer may not disclose personal data obtained by**
 20 **electronic monitoring to any person or business entity except with**
 21 **the prior written consent of the individual employee to whom the**
 22 **data relates unless the disclosure is made:**

- 23 (1) to officers and employees of the employer who have a
- 24 legitimate need for the information in the performance of
- 25 their duties;
- 26 (2) to a law enforcement agency in connection with a criminal
- 27 investigation or prosecution; or
- 28 (3) under a court order.

29 **Sec. 14. (a) An employer may not use personal data obtained by**
 30 **electronic monitoring as the exclusive basis for an individual**
 31 **employee performance evaluation or disciplinary action unless the**
 32 **employee is provided with an opportunity to review the personal**
 33 **data within a reasonable time after the data is obtained.**

34 **(b) An employer may not use personal data obtained by**
 35 **electronic monitoring as the sole basis for setting production**
 36 **quotas or work performance expectations.**

37 **(c) An employer may not possess or deliver personal data**
 38 **obtained by electronic monitoring that describes how an employee**
 39 **exercises rights guaranteed by the Constitution of the United States**
 40 **unless the possession or delivery is:**

- 41 (1) expressly authorized by statute or by the employee to
- 42 whom the data relates; or



C
O
P
Y

(2) pertinent to and within the scope of an authorized law enforcement activity.

Sec. 15. (a) The commissioner may investigate alleged violations of sections 8 through 14 of this chapter. Upon a finding of a violation of section 8, 9, 10, 11, 12, 13, or 14 of this chapter, the commissioner may assess a civil penalty of up to ten thousand dollars (\$10,000) for each violation.

(b) In determining the amount of a penalty under subsection (a), the commissioner shall consider the previous record of the employer with respect to this chapter.

Sec. 16. (a) An employee or prospective employee may bring a civil action against an employer to enforce sections 8 through 14 of this chapter.

(b) If an employer violates section 8, 9, 10, 11, 12, 13, or 14 of this chapter, the court may do the following:

(1) Award:

(A) actual damages; and

(B) court costs and reasonable attorney's fees;
to the prevailing employee or prospective employee.

(2) Enjoin further violation of this chapter.

C
o
p
y



COMMITTEE REPORT

Mr. Speaker: Your Committee on Labor and Employment, to which was referred House Bill 1545, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

LIGGETT, Chair

Committee Vote: yeas 9, nays 4.

C
o
p
y

HB 1545—LS 7145/DI 96+

